

## REMARKS

### Status of the Claims

After entry of this amendment, claims 1-15, 17-37 and 39-47 are pending. Claims 16 and 38 are canceled. Claims 3, 5, 6, 11, 12, 23-35 and 39 are withdrawn. Claims 1, 2, 4, 7-10, 13-15, 17-22, 36-37 and 40-47 are currently presented. Claims 1, 17 and 18 are currently amended.

Applicants expressly reserve the right to pursue the original subject matter of the amended and canceled claims in one or more continuation or divisional application(s).

### Claim Amendments

Support for the new and amended claims is provided in the specification and the claims as originally filed in the instant application.

Claim 1 is amended to limit a to 1.

Claim 17 (previously dependent from claim 16, which is now canceled) is amended to adjust its dependency and to incorporate the relevant limitation from claim 16.

Claim 18 is amended to bring the terminology in harmony with antecedent claim 17.

Since no new matter has been added by these claim amendments, Applicants respectfully request their entry into the record.

### Response to the Rejections

#### Under 35 USC 112

Claims 16 and 38 are rejected under 35 U.S.C. 112, second paragraph, as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Without acquiescing to the propriety of the rejection and solely for the purpose of expediting prosecution, Applicants have canceled claims 16 and 38, rendering their rejection moot. Applicants respectfully request withdrawal of the rejection.

#### Under 35 USC 102

Claim 1 is rejected under 35 U.S.C. 102(b) as allegedly anticipated by Lichtenberger et al. (*Bull. Soc. Chim. Fr.* **1963**, pp. 275-282).. Specifically, the Action identifies 4-(2-carbamoylolethoxy)-isophthalamide therein as anticipating claim 1 when  $Y^1 = \text{oxygen}$ ;  $Y^3 = \text{oxygen}$ ;  $a = 0$ ;  $R^1$ ,  $R^2$ ,  $R^3$ , and  $R^4 = H$ ; and  $Q = CH_2-CH_2-C(=O)-NH_2$ .

Applicants have amended claim 1, limiting a to 1, thus requiring the presence of the  $-C(=Y^2)-NR^5R^6$  moiety shown in the generic structure. 4-(2-Carbamoylethoxy)-isophthalamide does not have such a moiety. For at least that reason, the compound referred to in the instant rejection does not fall within the scope of claim 1 (or any of its dependents). Applicants, therefore, respectfully request withdrawal of the rejection.

Double Patenting

Claims 1, 2, 4, 7-10, 13-22, 36-38, and 40-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-18 of copending Application No. 11/839,509.

Without acquiescing to the propriety of the rejection and solely for the purpose of expediting prosecution, Applicants are herewith submitting a Terminal Disclaimer over Application No. 11/839,509, thus obviating the instant double patenting rejection.

Claims 1, 2, 4, 7-10, 13-22, 36-38, and 40-47 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-8 of copending Application No. 12/020,470.

Applicants respectfully submit that the obviousness-type double patenting rejection over Application No. 12/020,470 should be withdrawn.

According to MPEP 804(I)(B)(1), “[i]f ‘provisional’ [obviousness-type double patenting (ODP)] rejections in two applications are the only rejections remaining in those applications, the examiner should withdraw the ODP rejection in the earlier filed application thereby permitting that application to issue without need of a terminal disclaimer.”

In view of the foregoing amendments and arguments, Applicants believe the “provisional” obviousness-type double patenting rejection over Application No. 12/020,470 is the only rejection remaining in the instant application.

According to the Office Action of Dec. 2, 2011, in Application No. 12/020,470, “provisional” obviousness-type double patenting rejections are the only remaining rejections in Application No. 12/020,470.

The instant application, filed 10/03/2008, is a National Stage Entry of International Application No. PCT/US2004/043968, filed **12/29/2004**, which claims priority from U.S. Provisional Application No. 60/533,482, filed 12/30/2003.

U.S. Application No. 12/020,470, filed **01/25/2008**, claims priority from U.S. Provisional Application No. 60/982,670, filed 10/25/2007, and U.S. Provisional Application No. 60/886,530, filed 01/25/2007.

The instant application is thus the earlier filed application with respect to patent term (see relevant filing dates in bold above) and should be permitted to issue without a terminal disclaimer over the later filed application. MPEP 804(I)(B)(1). Applicants respectfully request withdrawal of the rejection.

**Conclusion**

Applicant believes that the claims are in condition for allowance, and early notification thereof is requested. The Examiner is invited to call the undersigned if necessary to expedite prosecution of this application.

Respectfully submitted,

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